

GEORGE E. CASLER

IBLA 81-1100

Decided October 27, 1981

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring placer mining claims abandoned and void. I MC 35672 through I MC 35684 and I MC 50000 through 50017.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in a county recording office does not constitute compliance with the recordation requirements of 43 CFR 3833.2-1.

APPEARANCES: George E. Casler, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

George E. Casler, has appealed from the September 1, 1981, decision of the Idaho State Office, Bureau of Land Management (BLM), which

declared 31 unpatented mining claims I MC 35672 through I MC 35684 and I MC 50000 through 50017, 1/ abandoned and void for failure to submit evidence of assessment work or notice of intention to hold the claims on or before December 30, 1980, as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and regulation 43 CFR 3833.2-1.

Appellant's mining claims were located prior to October 21, 1976, and filed for recordation with BLM on October 15, 1979, along with assessment work for that year.

In his statement of reasons for appeal appellant states that every year he would send his proof of labor to the "land office" in Wallace, Idaho (presumably the County Recorder's Office), as well as to

<u>1/ BLM Serial No.</u>	<u>Claim Name</u>	<u>Location Date</u>	I MC 35672	Doon
Meadows	6-7-34			
35673	Lucky Strike	8-9-45		
35674	Inga Bever	6-18-42		
35675	Queen Easter	8-13-36		
35676	Gross Gold	9-12-36		
35677	Gold Metal	8-20-33		
35678	Allie B	9-4-34		
35679	Cap Christiansen	8-9-45		
35680	Alpine Grove	6-24-42		
35681	Gold Crown	9-15-41		
35682	Gold Crown Mountain	8-18-36		
35683	Beatrice R	6-20-42		
35684	Sun Rise	6-28-42		
50000	Start No. 1	6-24-40		
50001	Lake	6-24-40		
50002	Falls	6-24-40		
50003	Queen	6-24-40		
50004	Alee	6-24-40		
50005	Breeze	6-24-40		
50006	Crown	6-24-40		
50007	Cross	6-24-40		
50008	Cicile	6-24-40		
50009	Job	6-24-40		
50010	Okey	6-24-40		
50011	Pen	6-24-40		
50012	Wisdom Creek Placer	7-15-49		
50013	Wisdom Creek Placer	7-15-49		
50014	Wisdom Creek Placer	7-15-49		
50015	Wisdom Creek Placer	7-15-49		
50016	Wisdom Creek Placer	7-15-49		
50017	Wisdom Creek Placer	7-15-49		

the BLM. While the record shows that appellant timely filed his proof of labor for 1979 and submitted proof of labor for 1981 on September 1, 1981, there is no evidence to support appellant's contention that proof of labor for 1980 was filed.

[1, 2] Section 314 of FLPMA, 43 U.S.C. § 1744 (1976), requires that the owner of an unpatented mining claim located on public land on or before October 21, 1976, shall file a notice of intention to hold the claim or an affidavit of assessment work performed for the claim on or before December 30 of each year, in the proper BLM office. The section further provides that failure to file the required instruments timely shall be conclusively deemed to constitute an abandonment of the unpatented mining claim. The statutory requirements are replicated in 43 CFR 3833.2-1 and 3833.4.

As the required documents were not filed with BLM on or before December 30, 1980, the claims were properly deemed to be abandoned and void. Susan Mativo, 52 IBLA 134 (1981). This Board has no authority to waive failure to comply with statutory requirements. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); see also David R. Newman, 57 IBLA 23 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

